

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JOSE RODRIGUEZ,

Plaintiff,

-v-

9:10-CV-1122

BAKER, Nurse, Upstate Correctional  
Facility,

Defendant.  
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APPEARANCES:

OF COUNSEL:

JOSE RODRIGUEZ  
Plaintiff, pro se  
82-A-4529  
Upstate Correctional Facility  
P.O. Box 2001  
309 Bare Hill Road  
Malone, NY 12953

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Attorney for Defendant  
The Capitol  
Albany, NY 12224

WILLIAM J. McCARTHY, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On August 2, 2011, the Honorable Randolph F. Treece, United States Magistrate Judge, advised, by Report-Recommendation, that defendant's motion to dismiss pursuant to Federal Rule of

Civil Procedure 12(b)(6) be granted and the case be dismissed. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1).

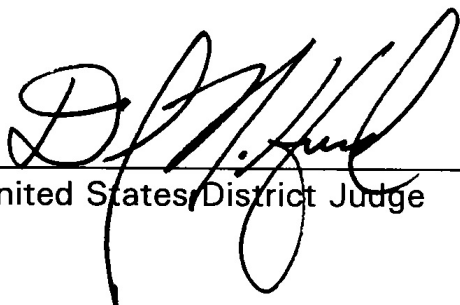
Therefore, it is

ORDERED that

1. Defendant's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED; and
2. The complaint is DISMISSED in its entirety.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: August 24, 2011  
Utica, New York.